

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**GOMESINDO MENDEZ,** )  
**ID # 39506-177,** )  
**Movant,** ) **No. 3:12-CV-4261-D**  
**vs.** ) **No. 3:09-CR-0318-D (02)**  
**UNITED STATES OF AMERICA,** )  
**Respondent.** )

## **ORDER**

After making an independent review of the pleadings, files, and records in this case, and the findings, conclusions, and recommendation of the magistrate judge, the court concludes that the findings and conclusions are correct. It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge are adopted.

Considering the record in this case and pursuant to Fed. R. App. P. 22(b) and 28 U.S.C. § 2253(c), the court denies a certificate of appealability. The court adopts and incorporates by reference the magistrate judge’s findings, conclusions, and recommendation filed in this case in support of its finding that the movant has failed to show (1) that reasonable jurists would find this court’s “assessment of the constitutional claims debatable or wrong,” or (2) that reasonable jurists would find “it debatable whether the motion states a valid claim of the denial of a constitutional right” and “debatable whether [this court] was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S.473, 484 (2000).

If movant files a notice of appeal,

( ) movant may proceed *in forma pauperis* on appeal.

(X) movant must pay the \$455.00 appellate filing fee or submit a motion to proceed *in forma pauperis* and a properly signed certificate of inmate trust account.

**SO ORDERED.**

June 27, 2013.

  
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SIDNEY A. FITZWATER  
CHIEF JUDGE